

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION

FRANK FARLANDO DANIELS, #78427

PLAINTIFF

versus

CIVIL ACTION NO. 2:08-cv-162-KS-MTP

STEPHANIE JONES, et al.

DEFENDANT

ORDER

This matter is before the court *sua sponte*, having reviewed the docket and finding that none of the Defendants have been served with process. By Order dated November 21, 2008 [11], the clerk was directed to issue summonses to Defendants Stephanie Jones, Ben White and Ray Walley at the addresses provided by Plaintiff, to be served by the United States Marshal pursuant to 28 U.S.C. § 1915(d). The summonses were issued and thereafter, the Marshall attempted unsuccessfully to effect service of process upon Defendants, as detailed below.

With respect to Defendant Jones, the MDOC initially accepted service of process on her behalf, but moved to withdraw its answer on behalf of Ms. Jones upon learning that she had resigned her employment with the MDOC prior to service of process. The court granted the motion and ordered [16] the MDOC to provide the court, under seal, with Ms. Jones' last known address so that process could be re-issued and served. The MDOC provided the information, and by sealed Order [20] dated February 23, 2009, the court directed the clerk to issue summons to Ms. Jones at the address provided by the MDOC. The U.S. Marshal attempted to serve process upon Ms. Jones on March 3, 2009, but according to the Process Receipt and Return [23] filed under seal with the court, Ms. Jones has abandoned her apartment. The Process Receipt and

Return [17] filed with respect to Defendant Walley stated that he is “no longer at this address.”¹ Finally, it is indicated on the docket that process was executed with respect to Defendant White. However, the Process Receipt and Return [19] merely states that a “Supv” accepted service of process on Mr. White’s behalf on January 6, 2009, and Mr. White has not filed an answer or otherwise appeared in this action. Accordingly,

IT IS ORDERED THAT:

1) Plaintiff shall provide the court, within thirty (30) days of the date of this order, addresses where Defendants Stephanie Jones and Ray Walley can be served with process. Should Plaintiff fail to provide this information to the court, the court may recommend dismissal of Plaintiff’s claims against these Defendants without prejudice. *See* Fed. R. Civ. P. 4(m).

2) The United States District Clerk is hereby directed to re-issue summons to the following Defendant:

Ben White
346 Second Street
Columbia, MS 39429

The Clerk is directed to attach a copy of this Order, this court’s Order [7] filed September 25, 2008 and Plaintiff’s response [8] filed October 6, 2008, to the Complaint, and the United States Marshal shall **personally** serve the same upon Mr. White pursuant to 28 U.S.C. § 1915(d).

3) It is Plaintiff’s responsibility to prosecute this case. Failure to advise this Court of a change of address or failure to comply with any order of this Court will be deemed a purposeful delay and contumacious act by Plaintiff and may result in dismissal of this case.

SO ORDERED on this, the 13th day of April, 2009.

¹ The address is: Lumberton Police Department, 102 West Main Avenue, Lumberton, MS 39455.

s/ Michael T. Parker

United States Magistrate Judge